

AN ACT

RELATING TO HEALTH; ENACTING THE HEALTH PROFESSIONAL
RECRUITMENT ACT; CREATING A HEALTH PROFESSIONAL COUNCIL;
PRESCRIBING DUTIES; CREATING AN EXEMPTION; AMENDING,
REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; MAKING
APPROPRIATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--Sections 1 through 10 of this
act may be cited as the "Health Professional Recruitment
Act".

Section 2. PURPOSE.--The purpose of the Health
Professional Recruitment Act is to establish a coordinated
systems approach to health professional supply and
distribution that is responsive to the changing needs of New
Mexico to ensure access to health services throughout the
state.

Section 3. DEFINITIONS.--As used in the Health
Professional Recruitment Act:

A. "applicant" means a person who is a licensed
health professional or a person enrolled or seeking to enroll
in a health education or training program;

B. "commission" means the commission on higher
education;

C. "council" means the health professional

council;

D. "health professional" means a person licensed or certified by the state to provide health and health-related services;

E. "loan" means money paid to a health professional student to pay all or part of that student's health education costs, money paid to a health professional during training or money paid to a health professional under a contract issued pursuant to the provisions of the Health Professional Recruitment Act; and

F. "underserved area" means an area or population of New Mexico that is lacking in sufficient health professionals or health services to ensure appropriate access to health care.

Section 4. HEALTH PROFESSIONAL COUNCIL CREATED--MEMBERSHIP.--The "health professional council" is created, consisting of fifteen members, as follows:

A. the vice president for health sciences at the university of New Mexico or his designee;

B. the vice president for health sciences at New Mexico state university or his designee;

C. the secretary of health or his designee;

D. the executive director of the commission or his designee;

E. the director of the New Mexico health policy

commission or his designee;

F. five members, who have knowledge of the health care delivery system, designated by a statewide organization representing municipalities, one to represent the metropolitan Albuquerque area and one from each of the four geographic quadrants of the state;

G. four members who have knowledge of the rural health care delivery system, designated by a statewide association of rural primary health care providers, one to represent each of the four geographic quadrants of the state; and

H. a Native American representative appointed by the New Mexico office of Indian affairs.

Section 5. COUNCIL DUTIES.--The council shall:

A. establish objective standards and criteria of health professional need;

B. inventory and assess the state's supply of health professionals, including the number and type of each;

C. determine the adequacy of health professionals to reasonably meet the health needs of the state's various geographic areas and special populations;

D. inventory and assess all health professional educational programs and proposals for new or expanded programs in the state's post-secondary educational institutions and those available through the state's

participation in the western interstate commission for higher education program, and include all current and future short- and long-term needs for the number and types of health professional educational programs;

E. review and make recommendations on underserved areas and populations of the state that have shortages of health care services and health professionals;

F. recommend to the commission the need for the various health professionals, health professional educational programs and allocation of funds under the health professional recruitment program; and

G. regularly inform the legislature of the need for the expansion or the contraction of health professional educational, recruitment and retention programs.

Section 6. STAFF.--Staff for the council shall be provided by the New Mexico health policy commission with the cooperation and assistance of entities represented on the council.

Section 7. HEALTH PROFESSIONAL AND STUDENT LOANS--QUALIFICATIONS--PREFERENCES.--

A. The commission may grant a loan to an applicant it deems qualified upon terms and conditions it determines pursuant to the provisions of the Health Professional Recruitment Act.

B. The commission shall accept a loan application

from an applicant who is a United States citizen and who declares his intent to practice in an underserved area of the state.

C. The commission shall make a full and careful investigation of the ability, character and qualifications of each applicant to determine his fitness to receive a loan. The commission shall, as applicable, give preference to those applicants who:

(1) agree to serve in those underserved areas of the state;

(2) are enrolled in or accepted by an accredited health professional education program;

(3) are studying or practicing in a branch of health service designated by the council as a high priority need;

(4) are unable, or whose parents or guardians are unable to pay the expenses of the education; and

(5) are New Mexico residents.

D. The commission shall maintain a list of underserved areas and health professions most lacking in underserved areas.

E. After consideration of council recommendations on allocation of appropriations for loan purposes, the commission shall determine the amount of the loan, taking

into consideration:

- (1) available funds;
- (2) federal requirements for health professional recruitment programs;
- (3) the location of the underserved area;
- (4) the need for a particular type of health professional to serve in a given area;
- (5) the difficulty in filling vacancies and maintaining health professional services in that area; and
- (6) other circumstances related to the need for health professional services in particular underserved areas.

F. The commission shall report annually by October 1 to the governor, the legislative health and human services committee and the legislative finance committee all actions concerning the health professional recruitment fund, including number, amounts and types of health education loans made and the locations and types of health professionals serving under contracts with the commission.

Section 8. LOANS--CONTRACTS--REPAYMENT.--

A. Loans may be forgiven in return for an appropriate term of service as a health professional practicing in an underserved area of the state, the specific term of service to be set by the commission.

B. Prior to receiving a loan, an applicant shall

sign a contract with the commission agreeing to practice as a licensed or certified health professional in an underserved area of New Mexico designated by the commission.

C. The contract shall provide for payment of the proceeds and repayment of the loan under terms and conditions set by the commission, except that no repayment service obligation shall be for less than two full years. Annual loan repayment in service shall be in proportion to the years of service specified in the contract, except that the commission may alter the years of service obligation of the applicant depending on the location and circumstances of the underserved area. A health professional must serve a complete year in order to be credited with fulfilling a year's repayment obligation.

D. A person who does not fulfill the service obligations of the contract shall be declared in default by the commission and shall immediately pay to the commission an amount equal to three times the outstanding principal, plus interest at the rate of eighteen percent per year, unless the commission finds extenuating circumstances that justify cancellation of the contract. If the contract is canceled with the approval of the commission, the amount due shall be as provided in Subsection E of this section.

E. If an applicant who receives a loan fails to complete his health education, or if a health professional

loan recipient fails to complete his contractual service obligation, but the commission finds there are extenuating circumstances permitting contract cancellation, the balance of the loan principal plus interest at the rate of seven percent per year are due immediately, except if the commission determines there are extenuating circumstances warranting modification of the amount due or the payment period.

F. The commission shall adopt rules to administer loans issued pursuant to the Health Professional Recruitment Act and the health professional recruitment fund.

Section 9. CONTRACTS--LEGAL ASSISTANCE--ENFORCEMENT--
CANCELLATION.--

A. The general form of the contracts required by the Health Professional Recruitment Act shall be prepared and approved by the attorney general and signed by the applicant and by the designated representative of the commission on behalf of the state. The commission is vested with full power to sue for any balance due the state from a student or health professional on a contract.

B. The commission may arrange with other agencies for the performance of services required by the provisions of the Health Professional Recruitment Act.

C. The commission may cancel or modify any contract made between it and any student or health

professional for any reasonable cause.

Section 10. FUND CREATED--PURPOSE--METHOD OF PAYMENT.-

-The "health professional recruitment fund" is created in the state treasury, to consist of all appropriations, gifts, grants, donations, interest on investment of the fund and money in the medical student loan for service fund, the osteopathic medical student loan for service fund, the nursing student loan for service fund, the allied health student loan for service fund and the health professional loan repayment fund. All payments of principal and interest on loans made pursuant to Chapter 21, Articles 22, 22A, 22B, 22C and 22D NMSA 1978 and all appropriations made and payments, repayments and penalties and interest made pursuant to the Health Professional Recruitment Act are credited to the fund or shall be deposited with the commission's administrative agent. All payments for loans shall be made on warrants signed by the secretary of finance and administration upon vouchers signed by the designated representative of the commission. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.

Section 11. Section 13-1-98 NMSA 1978 (being Laws 1984, Chapter 65, Section 71, as amended) is amended to read:

"13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--The provisions of the Procurement Code shall not apply to:

A. procurement of items of tangible personal property or services by a state agency or a local public body from a state agency, a local public body or external procurement unit except as otherwise provided in Sections 13-1-135 through 13-1-137 NMSA 1978;

B. procurement of tangible personal property or services for the governor's mansion and grounds;

C. printing and duplicating contracts involving materials which are required to be filed in connection with proceedings before administrative agencies or state or federal courts;

D. purchases of publicly provided or publicly regulated gas, electricity, water, sewer and refuse collection services;

E. purchases of books and periodicals from the publishers or copyright holders thereof;

F. travel or shipping by common carrier or by private conveyance or to meals and lodging;

G. purchase of livestock at auction rings or to the procurement of animals to be used for research and experimentation or exhibit;

H. contracts with businesses for public school transportation services;

I. procurement of tangible personal property or services, as defined by Sections 13-1-87 and 13-1-93 NMSA

1978, by the corrections industries division of the corrections department pursuant to regulations adopted by the corrections commission, which shall be reviewed by the purchasing division of the general services department prior to adoption;

J. minor purchases consisting of magazine subscriptions, conference registration fees and other similar purchases where prepayments are required;

K. municipalities having adopted home rule charters and having enacted their own purchasing ordinances;

L. the issuance, sale and delivery of public securities pursuant to the applicable authorizing statute, with the exception of bond attorneys and general financial consultants;

M. contracts entered into by a local public body with a private independent contractor for the operation, or provision and operation, of a jail pursuant to Sections 33-3-26 and 33-3-27 NMSA 1978;

N. contracts for maintenance of grounds and facilities at highway rest stops and other employment opportunities, excluding those intended for the direct care and support of persons with handicaps, entered into by state agencies with private, nonprofit, independent contractors who provide services to persons with handicaps;

O. contracts and expenditures for services to be

paid or compensated by money or other property transferred to New Mexico law enforcement agencies by the United States department of justice drug enforcement administration;

P. contracts for retirement and other benefits pursuant to Sections 22-11-47 through 22-11-52 NMSA 1978;

Q. contracts with professional entertainers; and

R. contracts with health professionals signed pursuant to the provisions of the Health Service Corps Act."

Section 12. Section 21-1-26.8 NMSA 1978 (being Laws 1995, Chapter 144, Section 1) is amended to read:

"21-1-26.8. HEALTH PROFESSION ADVISORY COMMITTEE--
CREATED--DUTIES.--

A. The "health profession advisory committee" is created to advise the commission on higher education on matters relating to the administration of the health professional recruitment fund.

B. The health profession advisory committee shall be composed of a representative of the department of health; a representative of the New Mexico health policy commission; and representatives of public post-secondary health and medical training programs, underserved health and medical area providers, recruiting and placement organizations and professional health and medical associations. Members shall be appointed by the commission on higher education pursuant to the policies and procedures of the commission.

C. The health profession advisory committee shall, after consideration of the recommendations of the health professional council:

(1) recommend to the commission eligible health professional shortage areas of the state;

(2) make recommendations to the commission on higher education on applicants for loans from the health professional recruitment loan fund; and

(3) give advice or other assistance to the commission as requested."

Section 13. Section 24-1D-1 NMSA 1978 (being Laws 1994, Chapter 63, Section 1) is amended to read:

"24-1D-1. SHORT TITLE.--Chapter 24, Article 1D NMSA 1978 may be cited as the "Health Service Corps Act"."

Section 14. Section 24-1D-2 NMSA 1978 (being Laws 1994, Chapter 63, Section 2) is amended to read:

"24-1D-2. DEFINITIONS.--As used in the Health Service Corps Act:

A. "commission" means the commission on higher education;

B. "corps" means the New Mexico health service corps;

C. "council" means the health professional council;

D. "department" means the department of health;

E. "health professional" means a person licensed or certified by the state to provide pre-hospital care or basic medical, dental, optometric or behavioral health services; and

F. "practice site" means a health facility licensed by the state or a federal health facility located in an area designated by the corps after serious consideration of recommendations by the council as critically or chronically underserved and that uses a sliding fee scale approved by the department."

Section 15. Section 24-1D-3 NMSA 1978 (being Laws 1994, Chapter 63, Section 3) is amended to read:

"24-1D-3. NEW MEXICO HEALTH SERVICE CORPS--STAFF--
DEPARTMENT POWERS AND DUTIES.--

A. The "New Mexico health service corps" is created in the department to recruit, place and support health professionals in critically or chronically underserved areas. The secretary of health may employ a medical director to head the corps. The medical director may employ support staff and, after considering recommendations of the council, employ or contract with health professional staff. Employees are subject to the provisions of the Personnel Act.

B. The corps has the power to:

(1) enter into contracts to carry out the provisions of the Health Service Corps Act and sue for

enforcement of those contracts; and

(2) adopt and file, in accordance with the State Rules Act, rules to carry out the provisions of the Health Service Corps Act.

C. The corps shall, after considering recommendations of the council:

(1) recruit health professionals as employees or contractors of the corps;

(2) establish criteria and procedures for evaluating and qualifying corps health professionals;

(3) determine and maintain a list of underserved areas and practice sites;

(4) determine the need for health professionals at each practice site and assign staff as needed on a priority basis;

(5) provide support for health professionals at practice sites;

(6) work closely with the council and the commission to coordinate the use of health professionals who have practice obligations pursuant to the Health Professional Recruitment Act or the western interstate commission for higher education program;

(7) work with the university of New Mexico school of medicine, college of nursing, the emergency medical services academy and any other entity to identify potential

health professionals who qualify for the corps;

(8) establish accounting and auditing procedures to account for all money paid to health professionals or received from communities and practice sites;

(9) provide technical assistance and support to practice sites and areas designated as critically or chronically underserved by the council in order to facilitate the recruitment or retention of health professionals; and

(10) report annually to the council, the legislative finance committee and the legislative health and human services committee on the activities of the corps, including expenditures from the health professional safety net fund."

Section 16. Section 24-1D-4 NMSA 1978 (being Laws 1994, Chapter 63, Section 4) is amended to read:

"24-1D-4. CORPS SITES--LOCAL ASSISTANCE--REIMBURSEMENTS.--The corps may require a community or practice site to pay the costs associated with providing corps health professionals in the community. The corps may allow in-kind contributions as partial or complete payment. The corps may negotiate with the community on the amount of money or in-kind services that shall be paid to the state. Money paid to the state shall be deposited in the health professional safety net fund. Payback requirements and in-

kind contributions shall be determined and negotiated based on formulas adopted pursuant to rules."

Section 17. Section 24-1D-7 NMSA 1978 (being Laws 1994, Chapter 63, Section 7) is amended to read:

"24-1D-7. CORPS SERVICE FOR EDUCATIONAL LOAN FOR SERVICE PROGRAMS.--Service in the corps may be used to satisfy service requirements for loans made pursuant to the provisions of the Health Professional Recruitment Act except as prohibited by federal law."

Section 18. Section 24-1D-9 NMSA 1978 (being Laws 1994, Chapter 63, Section 9) is amended to read:

"24-1D-9. LEGAL COUNSEL.--The office of general counsel of the department shall provide legal services to the corps. The corps is vested with full power to sue in its own name for any balance due the state on a contract. Money paid pursuant to contract shall be deposited in the health professional safety net fund."

Section 19. A new Section 24-1D-11 NMSA 1978 is enacted to read:

"24-1D-11. HEALTH PROFESSIONAL SAFETY NET FUND CREATED.--The "health professional safety net fund" is created, to consist of all appropriations, gifts, grants, donations, interest on investment of the fund, payments, penalties, interest on penalties and money appropriated to the department for the purposes of the Health Service Corps

Act, any money or contributions made by a community or practice site pursuant to Section 24-1D-4 NMSA 1978 and any penalties and interest due pursuant to contracts signed pursuant to Section 24-1D-3 NMSA 1978 in effect prior to July 1, 1999. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund but shall remain in the fund to carry out the purposes of the Health Service Corps Act."

Section 20. TEMPORARY PROVISION--TRANSFER OF FUNDS.-- Effective July 1, 1999, all money in the medical student loan for service fund, the osteopathic medical student loan for service fund, the nursing student loan for service fund, the allied health student loan for service fund and the health professional loan repayment fund is transferred to the health professional recruitment fund.

Section 21. REPEAL.--Sections 21-22-1 through 21-22-10, 21-22A-1 through 21-22A-10, 21-22B-1 through 21-22B-10, 21-22C-1 through 21-22C-10, 21-22D-1 through 21-22D-10, 24-1D-5 and 24-1D-6 NMSA 1978 (being Laws 1975, Chapter 244, Sections 1 through 10, Laws 1978, Chapter 109, Sections 1 through 10, Laws 1987, Chapter 299, Sections 1 through 10, Laws 1994, Chapter 57, Sections 3 through 12, Laws 1995, Chapter 144, Sections 16 through 25 and Laws 1994, Chapter 63, Sections 5 and 6, as amended) are repealed.

Section 22. EFFECTIVE DATE.--The effective date of the

